

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and

THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 526 of 2005

Between:

M/s. Kamakshi Traders, Shop No.C/3, Bhandari Complex, Kottur, Mahaboobnagar
District, rep by Proprietor, Mr. M. Veeresam

.... PETITIONER

AND

- 1 The Assistant Commercial Tax Officer, Adilabad
- 2 The Commercial Tax Officer, Jedcherla Circle Mahaboobnagar District

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more particularly in the nature of Writ of Mandamus declaring the action of the Respondents in detaining the goods by notice dated 3-1-2005 without even passing detention order as illegal, arbitrary, highhanded, without jurisdiction, without authority of law and contrary to the provisions of the APGST Act and direct release of the goods namely steel valued at Rs. 6, 11,000/- detained by the 2nd Respondent which is covered by Waybill bearing No. 2275630 forthwith and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.BHASKAR REDDY VEMIREDDY

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court made the following :

ORDER: (Per Hon'ble Sri Justice M.H.S.Ansari)

Petitioner questioned the action of the respondents in detaining the goods. When the writ petition was moved before Court on 27.01.2005 while ordering Notice before Admission, certain directions were issued for release of the goods. It was directed that if the petitioner deposits Rs.24,440/- (Rupees twenty four thousand four hundred and forty only) being the tax demanded in the impugned notice, dated 03.01.2005, goods shall be released in favour of the petitioner without insisting upon payment of penalty amount.

2. It is not disputed before us that the goods have since been released upon payment of tax. In the circumstances, we are of the view that no further orders need be passed in the writ petition, save and except that the respondent authority shall be entitled to proceed, in accordance with law, pursuant to the impugned notice, dated 3.1.2005 with regard to the proposal to collect tax and penalty. Whatever objections the petitioner has to the proposed levy of tax and imposition of penalty, it is open to him to raise before the respondent authority in reply to the notice, dated 3.1.2005, and for the said authority to consider the same in accordance with law. Petitioner is not remedyless. If aggrieved by any such orders passed by the Commercial Tax Officer, pursuant to the notice, dated 3.1.2005. It is open to the petitioner to avail of such statutory remedies provided in the A.P.G.S.T Act or by invoking Article 226 of the Constitution of India, as may be applicable and as the petitioner may be advised.

3. The writ petition accordingly stands disposed of. No order as to costs.

M.H.S.ANSARI, J

T.CH.SURYA RAO, J

Dated: 22.02.2005

RAR

To

- 1 The Assistant Commercial Tax Officer, Adilabad
- 2 The Commercial Tax Officer, Jedcherla Circle Mahaboobnagar District
- 3 2 CCs to G.P for Commercial Taxes, High Court Buildings,
Hyderabad (OUT)
- 4 2 CD copies.